

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Planning and Building	(2) MEETING DATE 2/2/2016	(3) CONTACT/PHONE Airlin M. Singewald, Senior Planner / (805) 781-5198	
(4) SUBJECT Hearing to consider an appeal by Robert Mueller of the Planning Department Hearing Officer's approval of a request by Verizon Wireless and Lori Angello for a Minor Use Permit/Coastal Development Permit (DRC2014-00149) to allow the construction and operation of an unmanned wireless communications facility consisting of one panel antenna and related equipment on a 23' tall replacement light pole and ground-mounted equipment boxes, located in the equipment yard for Angello's ATV Rentals, 307 Pier Avenue, in the community of Oceano. This project is exempt from CEQA. District 4.			
(5) RECOMMENDED ACTION It is recommended that the Board adopt the resolution partially upholding the appeal and modifying the decision of the Planning Department Hearing Officer approval.			
(6) FUNDING SOURCE(S) Department Budget	(7) CURRENT YEAR FINANCIAL IMPACT \$0.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? Yes
(10) AGENDA PLACEMENT { } Consent { } Presentation {x} Hearing (Time Est. <u>45 min.</u>) { } Board Business (Time Est. <u> </u>)			
(11) EXECUTED DOCUMENTS {x} Resolutions { } Contracts { } Ordinances { } N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: { } 4/5 Vote Required {x} N/A	
(14) LOCATION MAP Attached	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY {x} N/A Date: <u> </u>	
(17) ADMINISTRATIVE OFFICE REVIEW Lisa M. Howe			
(18) SUPERVISOR DISTRICT(S) District 4			

County of San Luis Obispo



TO: Board of Supervisors

FROM: Planning and Building / Airlin M. Singewald, Senior Planner

DATE: 2/2/2016

VIA: Ellen Carroll, Planning Manager/Environmental Coordinator

SUBJECT: Hearing to consider an appeal by Robert Mueller of the Planning Department Hearing Officer's approval of a request by Verizon Wireless and Lori Angello for a Minor Use Permit/Coastal Development Permit (DRC2014-00149) to allow the construction and operation of an unmanned wireless communications facility consisting of one panel antenna and related equipment on a 23' tall replacement light pole and ground-mounted equipment boxes, located in the equipment yard for Angello's ATV Rentals, 307 Pier Avenue, in the community of Oceano. This project is exempt from CEQA. District 4.

RECOMMENDATION

It is recommended that the Board adopt the resolution partially upholding the appeal and modifying the decision of the Planning Department Hearing Officer approval.

DISCUSSION

Background

On October 2, 2015, the Planning Department Hearing Officer heard and approved a request by Verizon Wireless and Lori Angello for a Minor Use Permit/Coastal Development Permit to allow the construction and operation of an unmanned wireless communications facility, consisting of an approximately 2' tall panel antenna mounted on a 23' tall light pole, which would replace an existing light pole of the same height.

The proposed panel antenna would be concealed within a "radome" (a fiberglass cylinder) mounted to the top of the replacement pole. The top of the radome would reach a height of 26' above ground level. The project also involves installing two new Remote Radio Unit (RRU) equipment boxes at a height of 5'-10" on the replacement light pole and two equipment cabinets on an approximately 3' x 5' concrete pad at the base of the pole. The proposed facility would be located in an existing outdoor equipment yard for Angello's ATV Rentals.

As described in the October 2, 2015 staff report (attached), the proposed project is consistent with the visual screening requirements of the Local Coastal Plan because the proposed facility would be disguised to resemble and replace an existing light pole, the proposed panel antenna will be completely concealed from public view, and the RRUs and ground-equipment will be located within a fenced enclosure.

At the October 2, 2015 hearing, Robert Mueller (the appellant) raised concerns that the existing business, Angello's ATV rentals, does not conform to existing permit conditions and that the existing site development is inconsistent with various ordinance provisions. Specifically, he stated that the existing equipment yard fencing and on-site storage buildings were in a state of disrepair and potentially unpermitted. He also stated that the proposed replacement light pole would be taller and would have a larger diameter compared to the existing pole, which could adversely impact coastal views.

In response to these concerns, the Hearing Officer approved the project with an added condition to require that any

existing condition compliance issue or code violation be resolved prior to issuance of a construction permit for the proposed telecommunications facility.

Appeal

Mr. Mueller filed an appeal of the Hearing Officer's decision on October 15, 2015. The appeal raised concerns about the project's visual impacts and ongoing code violations and maintenance issues associated with the existing development and use of the site. These appeal issues are listed below along with staff's response.

Issue #1: Following the October 2, 2015 hearing, staff conducted additional research on the permit history for the site and found three past use permits related to the existing ATV rental business:

- D860180D – Development Plan to allow for sales and servicing of used ATVs.
- D990315P – Minor Use Permit to allow for sales and servicing of used ATVs.
- D020051P – Minor Use Permit to allow for a new 1,200 square-foot storage building.

The conditions specified in D860180D are the ones that apply to the existing site development. D990315P was withdrawn and the building authorized under D020051P was never built. Both D860180D and D020051P included requirements to improve the existing site development. These requirements are described in Condition #2 of D860180D:

Site development shall be consistent with a revised site plan to be submitted to the Development Review Section of the Planning Department for review and approval before issuance of a building permit. The revised plan shall indicate the following:

- a. *Area of ATV display.*
- b. *Parking for at least three spaces on the northern lot¹ – including striping and wheel-stops.*
- c. *Solid fencing around outdoor repair areas.*
- d. *Solid enclosure and location for dumpster.*

Based on staff's site visit, the existing site development does not appear to comply with this condition. The existing site development will have to be brought into conformance with this condition before the proposed Verizon facility can be established on the project site. This is based on Coastal Zone Land Use Ordinance Section 23.01.034(c), which states that a land use permit cannot be approved where an existing land use, building or parcel is being maintained in violation of applicable codes or any condition of a land use permit, except where the application incorporates measures proposed by the applicant to correct the violation, and correction will occur before establishment of the new proposed use.

This issue would have been addressed by the condition added at the October 2, 2015 hearing to ensure that any condition compliance issue is remedied prior to establishing the proposed Verizon facility. However, to ensure compliance and to make the Department's expectation clear, staff added this previous condition as a new condition (#2) for the proposed Verizon project.

Issue #2: The project site has been the subject of "repeat" code violations.

Staff Response: There has been one code enforcement case recorded on the project site over the past 10 years. This case, which was opened and closed in 2009, was due to a complaint that parking lot lighting from the project site was spilling over to adjacent residential parcels. Code enforcement staff was not able to verify the complaint and closed the case.

As pointed out by Mr. Mueller, there is also an existing cargo container on the project site. This cargo container would have to be removed before issuance of a building permit for the proposed Verizon facility, since cargo containers are not allowed on parcels in the Commercial Retail land use category (see Condition #5).

Issue #3: The project will adversely impact scenic coastal resources.

¹ The "northern lot" is the proposed project site. The project site under the original approval (D860180D) also included the parcel immediately to the south (across Pier Avenue), which is no longer part of the ATV rental business.

Staff Response: The proposed project will have a minimal visual impact since it would replace an existing light pole with a new one of a similar size. While the replacement light pole would have a larger diameter and would be 3' taller, there would be no net increase in the number of structures on the site and the facility would be adequately disguised as a light pole. Any obstruction of coastal views from the increase in the pole's diameter or height would be nominal. The project is consistent with the visual screening standards of the ordinance, which encourage new telecommunications facilities to be incorporated into existing structures or to be a stealth design that is similar to surrounding development.

The proposed facility would be located within the existing outdoor service area for Angello's ATV Rentals. This area is currently enclosed with a chain-link fence, which will have to be replaced with a solid (wood or masonry) fence prior to issuance of a construction permit for the proposed Verizon facility (see Issue #1). The solid fencing would screen the base of the proposed Verizon facility, including the ground equipment and RRUs, from public view.

The appeal also states that the project should be conditioned to prohibit the installation of additional devices on the replacement light pole. Staff is not proposing to add such a condition because it would conflict with ordinance provisions that encourage carriers to share antenna support structures. However, any future request to collocate on the proposed replacement pole would require separate approval and would be subject to visual screening requirements to minimize visual impacts.

OTHER AGENCY INVOLVEMENT/IMPACT

The project was referred to the Public Works, Coastal Commission, and the Oceano Advisory Council. In addition, County Counsel has reviewed and approved the attached resolution with findings and conditions.

FINANCIAL CONSIDERATIONS

This project is in the coastal zone and is not subject to an appeal fee. This appeal was processed using department allocated general fund support.

RESULTS

Partially upholding the appeal would allow for the proposed Verizon facility to be constructed with added conditions for a designated ATV display area (Condition #2a), designation of three parking spaces (Condition #2b), solid fencing around repair areas (Condition #2c), a solid enclosure and location for the existing dumpster (Condition #2d), and removal of an existing cargo container (Condition #5). Partially upholding the appeal and conditionally approving the project is consistent with the countywide goals of promoting well-governed and livable communities. Denial of the appeal would result in approval of the project without the added conditions described above.

ATTACHMENTS

1. Attachment 1 - Board of Supervisors Resolution with Findings and Conditions
2. Attachment 2 - Appeal letter, dated October 15, 2015
3. Attachment 3 - October 2, 2015 Planning Department Hearing Minutes
4. Attachment 4 - October 2, 2015 Planning Department Hearing Staff Report